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February 13, 2025

RE: *The New York Times Co. v. Microsoft Corp., et al.* No. 1:23-cv-11195
New York Daily News, LP, et al. v. Microsoft Corp., et al., No. 1:24-cv-3285
The Center for Investigative Reporting, Inc. v. OpenAI, Inc., No. 1:24-cv-04872

Dear Magistrate Judge Wang:

As the Court directed at the January 31, 2025 deposition coordination settlement conference, I write on behalf of the News Plaintiffs to provide an update on the status of negotiations surrounding deposition coordination. I provide separate updates for OpenAI and Microsoft below.

OpenAI:

- ***Scope of coordination:*** News Plaintiffs have agreed to use their best efforts to coordinate the scheduling of depositions of OpenAI witnesses with depositions being taken in the California and SDNY Class Actions. News Plaintiffs have not agreed to take *every* common OpenAI witness on the same schedule as the plaintiffs in the S.D.N.Y. and California Class Actions, but have agreed to use their best efforts to coordinate scheduling where possible.
- ***Per-witness time caps:*** News Plaintiffs, Class Plaintiffs, and OpenAI have agreed that, for any OpenAI witness whose deposition is taken across the three groups of cases, that witness will sit for a total of up to 12 hours on the record, across two days. News Plaintiffs reserve the right to seek additional time for a particular witness on good cause shown, and to modify this 12 hour per-witness cap for good cause in the event that it proves unworkable for News Plaintiffs.
- ***Protective order:*** News Plaintiffs, Class Plaintiffs, and OpenAI have agreed to modify the protective orders across the three cases to permit the sharing of documents for purposes of deposition coordination.

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- **Document productions:** OpenAI has agreed to make best efforts to produce all custodial documents at least a week prior to a witness's deposition. News Plaintiffs reserve the right to seek additional time from a particular witness in the event that OpenAI produces additional custodial documents after the witness's deposition.

Microsoft:

- **Scope of coordination:** The News Plaintiffs and the SDNY Class Plaintiffs¹ have agreed to share deposition time for Microsoft witnesses whose depositions are sought in both cases. News Plaintiffs reserve the right to modify this agreement for good cause, including if the discovery schedules governing the News Cases and *Authors Guild* materially diverge.
- **Per-witness time caps:** The News Plaintiffs and the SDNY Class Plaintiffs have agreed to a default limitation of 10.5 hours per shared Microsoft witness, which may be altered on a case-by-case basis for individual witnesses.
- **Protective order:** The News Plaintiffs, the SDNY Plaintiffs, and Microsoft have agreed to modify the protective orders in the two cases to permit the sharing of documents for purposes of deposition coordination.
- **Overall caps:** Microsoft has informed News Plaintiffs that it wishes to reach agreement on other issues, including an overall cap on the number of hours across all Microsoft witnesses, before depositions of Microsoft witnesses commence. Consistent with the Court's guidance at the January 22, 2025 conference, the News Plaintiffs have given Microsoft (and OpenAI) a preliminary list of witnesses and an estimated amount of time for each witness. The News Plaintiffs are continuing to confer with Microsoft in good faith over an overall hours cap. News Plaintiffs do not, however, agree that agreement on an overall hours cap is necessary for depositions of Microsoft witnesses to commence. The News Plaintiffs would welcome the Court's guidance on this issue.

Respectfully submitted,

/s/ Zachary B. Savage

Zachary B. Savage

¹ Microsoft is not a party in the California Class Action.